



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Employment Security Department

- ☒ Preproposal Statement of Inquiry was filed as WSR 09-14-007 ; or
☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice
☐ Supplemental Notice to WSR _____
☐ Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) New sections in Chapter 192-240 WAC relating to the payment of extended unemployment benefits. WAC 192-240-60, What is the priority of payments; WAC 192-240-070, What happens if I am paid emergency or extended benefits when I am eligible for a new claim; and WAC 192-240-080, How much will I receive in extended benefits if my regular weekly benefit amount is increased?

Hearing location(s): Employment Security Department
Maple Leaf Conference Room, 2nd Floor
212 Maple Park
Olympia, Washington

Submit written comments to:

Name: Pamela Ames
Address: PO Box 9046
Olympia, WA 98507-9046
e-mail pames@esd.wa.gov
fax (360)902-9799 by (date) November 10, 2009

Date: November 10, 2009 Time: 10:15 a.m.

Assistance for persons with disabilities: Contact

Jeannette Nelson by November 9, 2009

TTY (360) 902-9569 or (360) 902-9602

Date of intended adoption: November 16, 2009
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The rule provides clarity concerning the priority of payments, how payments will be handled when a claimant is eligible for an unemployment claim but is paid extended or emergency benefits in error, and how the amount of extended benefits will be calculated when an individual's weekly benefit amount is temporarily increased.

Reasons supporting proposal: The proposed rules clarify the payment of extended unemployment benefits in coordination with the emergency unemployment compensation benefits paid under federal law.

Statutory authority for adoption: RCW 50.12.010, 50.12.040, 50.20.010

Statute being implemented: RCW 50.22.010 and 020

Is rule necessary because of a:

- Federal Law? ☐ Yes ☒ No
Federal Court Decision? ☐ Yes ☒ No
State Court Decision? ☐ Yes ☒ No
If yes, CITATION:

CODE REVISER USE ONLY

DATE

10-5-09

NAME (type or print)

SIGNATURE

TITLE

Paul Trause
Deputy Commissioner

CONFIDENTIAL
8/1/09 10:00 AM

7/3/09

9:12
09-20-098

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

Name of proponent: (person or organization) Employment Security Department

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Juanita Myers	212 Maple Park, Olympia	(360) 902-9665
Implementation....Nan Thomas	212 Maple Park, Olympia	(360) 902-9303
Enforcement..... Nan Thomas	212 Maple Park, Olympia	(360) 902-9303

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No. Explain why no statement was prepared.

The proposed rules will not impose more than minor costs on businesses, nor will there be a disproportionate impact on small busines. Any business costs associated with the rules are the result of the underlying legislation.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No: Please explain: The proposed rules are not significant legislative rules as defined in RCW 34.05.328.

NEW SECTION

WAC 192-240-060 What is the priority of payments? Any emergency unemployment compensation or any similar federal compensation may be paid before the state extended benefits authorized under Chapter 50.22 RCW at the discretion of the commissioner.

NEW SECTION

WAC 192-240-070 What happens if I am paid emergency or extended benefits when I am eligible for a new unemployment claim? If you are paid emergency unemployment compensation, state extended benefits, or any similar state or federal extension, and it is later discovered that you were eligible for a regular unemployment claim during all or part of the period in which you received such benefits, the regular unemployment claim takes priority. The balance on your new unemployment claim will be adjusted for any week(s) at issue, meaning those weeks in which you should have received regular unemployment benefits, subject to the following:

(1) Except as provided in subsection 4 of this section, you may not be paid twice for the same week

(2) If your new weekly benefit amount is equal to the amount you were paid for the weeks at issue, the amount you were paid in emergency unemployment compensation or extended benefits will be deducted from the maximum benefits payable on your new claim.

Example: Your previous weekly benefit amount was five hundred dollars. You received emergency unemployment compensation for eight weeks at this amount when it was discovered you were eligible for a new claim in the amount of five hundred dollars. The five hundred dollars paid for eight weeks will be deducted from the maximum benefits payable on your new claim.

(3) If your new weekly benefit amount is lower than the amount you were paid for the weeks at issue, the amount you were paid in emergency unemployment compensation or extended benefits that is equivalent to the weekly benefit amount on your new claim will be deducted from the maximum benefits payable on your new claim. The difference between the amounts paid in emergency unemployment compensation or extended benefits for the week(s) at issue and the weekly benefit amount on your new claim will be waived as provided in RCW 50.20.190.

Example: Your previous weekly benefit amount was five hundred dollars. You received emergency unemployment

compensation for eight weeks at this amount when it was discovered you were eligible for a new claim in the amount of three hundred-fifty dollars. The three hundred-fifty dollars for eight weeks will be deducted from the maximum benefits payable on your new claim. The one hundred-fifty dollar difference between your previous weekly benefit amount and your new weekly benefit amount will be waived.

(4) If your new weekly benefit amount is higher than the amount you were paid for the week(s) at issue, the amount you were paid in emergency unemployment compensation or extended benefits will be supplemented so that you receive your new weekly benefit amount for the weeks at issue and the total deducted from the maximum benefits payable on your new claim.

For example: Your previous weekly benefit amount was three hundred-fifty dollars. You received emergency unemployment compensation for eight weeks at this amount when it was discovered you were eligible for a new claim in the amount of five hundred dollars. You will be paid an additional one hundred-fifty dollars for each of the eight weeks at issue and the total deducted from the maximum benefits payable on your new claim.

NEW SECTION

WAC 192-240-080 How much will I receive in extended benefits if my regular weekly benefit amount is increased?

(1)(a) If your weekly benefit amount for regular unemployment benefits is increased during your benefit year, the maximum amount of extended benefits payable will be the lesser of fifty percent of the total regular unemployment compensation paid to you for the benefit year or thirteen times the average weekly benefit amount paid during your benefit year.

Example: You receive regular unemployment benefits for twenty weeks at \$200 and \$245 for the remaining six weeks. The maximum benefits payable on your claim is \$5,470. Your weekly benefit amount for extended benefits will be \$245. The maximum extended benefits payable will be \$2,735 which is the lesser of fifty percent of \$5,470 or thirteen times \$222.5 (\$200 + \$245 divided by 2, the average of both weekly benefit amounts, or \$2,892).

(b) When the state is in a high unemployment period as defined in RCW 50.22.010(3), the maximum amount of extended benefits payable will be the lesser of eighty percent of the total regular unemployment compensation paid to you for the benefit year or twenty times the average weekly benefit amount paid during your benefit year.

(2) For purposes of this section, "average" means the average of the two weekly benefit amounts paid during your benefit year.